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State of New Hampshire  
Department of Environmental Services  
Water Council

04-05 WC

IN RE: Upper IPC Dam, Bristol, Dam #031-03 Notice of Appeal of  
Administrative Order No. WD 04-001

Notice of Appeal

- A. Introduction. The Department of Environmental Services, Water Division ("DES") has issued an Administrative Order No. WD 04-001 dated January 23, 2004 ("Order") (a copy is attached hereto as Exhibit A). Freudenberg-NOK General Partnership by and through its attorneys, Stebbins, Lazos & Van Der Beken, PA, pursuant to RSA 482:14 and ENV-WC 203.03 submits this Notice of Appeal and in support thereof say the following:
- B. Exact Legal Name and Address of Party Seeking Relief.
- Freudenberg-NOK General Partnership with an address at PO Box B, Route 104, Bristol, New Hampshire 03222-0501 ("Freudenberg")
- C. Concise Statement of Facts and Law upon which the Council is expected to rely in granting relief:
1. The Order relates to the so-called "Upper IPC Dam", Bristol, New Hampshire Dam #031.03 ("Dam").
  2. As best as can be determined, title to the Dam was conveyed by Public Service Company to International Packings Corporation by Quitclaim Deed dated December 22, 1964 and recorded at Book 1013, Page 44 of the Grafton County Registry of Deeds ("PSNH Deed"). Freudenberg is the successor in interest to International Packings Corporation and retained title subject to the terms of the PSNH Deed (a copy of which is attached hereto as Exhibit B).
  3. The PSNH Deed conveyed the Dam and adjacent property subject to the provision that the owner holds title only so long as it generates electricity and "twelve (12) months after the discontinuance thereof" the title transfers to the State of New Hampshire ("Title Transfer").
  4. The rights in favor of the State of New Hampshire were conveyed to the State of New Hampshire by Quitclaim Deed dated December 22, 1964 and recorded at Book 1012, Page 544 of the Grafton County Registry of Deeds (a copy of which is attached hereto as Exhibit C) ("State Deed").

5. Freudenberg ceased to generate electricity at the Dam after April of 2002.
6. At the time Freudenberg performed temporary emergency repairs to the Dam in March and April 2003, the twelve (12) month period of the Title Transfer had not passed and Freudenberg wished to avoid any possible hazard to the public.
7. The Dam has been maintained in a dewatered condition since after April of 2002.
8. The Dam has not been inspected by a professional consulting engineer. The DES has conducted a comprehensive engineering review of the Dam in its dewatered condition.
9. The Determination of Violation and the Order may not be applicable to Freudenberg since it no longer is the owner of the Dam as provided in the conveyance documents.
10. Freudenberg objects to the Determination of Violations and does not agree that the Dam is a "dam in disrepair". The Dam has not been operated as a hydroelectric facility since after April 2002 and has been maintained in a dewatered condition since that time. No professional evaluation has been made of the Dam subsequent to the repairs performed by Freudenberg in April 2003. As requested by DES, Freudenberg has constantly monitored the conditions of the Dam and its does not present a "menace to public safety."

D. A clear and concise statement of Relief Sought and Statutory Provision under which relief is sought.

1. Freudenberg requests an order from the Council confirming that it is not the owner of the Dam and is therefore not responsible for repairs to the Dam under RSA 482:12.
2. In the alternative, if Freudenberg is determined to be the owner of the Dam;
  - 2.1 Conduct a hearing after proper notice to determine whether the Dam is in disrepair and to that end grant Freudenberg adequate time to conduct an engineering study and submit information and analysis in opposition of the Determination of Violation in the Order;
  - 2.2 Allow Freudenberg to propose an alternative remedy to those contained in the Order, including, without limitation, the right to breach the Dam as provided in the applicable Regulations;
  - 2.3 Allow Freudenberg to propose sale of the Dam to the State or third parties; and,

- 2.4 Grant such other appropriate and available remedies determined after such engineering study is completed and hearing conducted.

Respectfully submitted,  
Freudenberg-NOK General Partnership  
By its Attorneys  
Stebbins, Lazos & Van Der Beken, PA

By:

**COPY**

Nicholas J. Lazos  
66 Hanover Street, Suite #301  
Manchester, NH 03101  
603-627-3700

Certifications

I hereby Certify that I have hand delivered a copy of the foregoing on February 20, 2004 to Harry P. Stewart, PE Director, Water Division and Michael P. Nolin, Commissioner NH Department of Environmental Services.

**COPY**

Nicholas J. Lazos

## List of Exhibits

- Exhibit A      Administrative Order No WD 04-001 dated January 23, 2004
  
- Exhibit B      Quitclaim Deed - Public Service Company of New Hampshire to  
International Packings Corporation dated December 22, 1964
  
- Exhibit C      Quitclaim Deed - Public Service Company of New Hampshire to The State  
of New Hampshire dated December 22, 1964

Exhibit A



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-3406 FAX (603) 271-7894



Freudenburg NOK-General  
Partnership  
Attn: Greg Keenan  
P.O. Box B, Route 104  
Bristol, NH 03222-0501

Re: Upper IPC Dam, Bristol,  
Dam #031.03

ADMINISTRATIVE ORDER  
No. WD 04-001

January 23, 2004

002200

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division to Freudenburg NOK-General Partnership pursuant to RSA 482:12 and RSA 482:87. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. Freudenburg NOK-General Partnership is a business registered in New Hampshire having a mailing address of P.O. Box B, Route 104, Bristol, NH 03222-0501.

C. STATEMENTS OF FACTS AND LAW

1. Pursuant to RSA 482, DES regulates the construction and maintenance of dams so as to meet the stated statutory objectives, including the regulation of water levels, the lessening of flood damage, and the enhancement of public safety. Pursuant to RSA 482:87 the Commissioner of DES has adopted NH Admin. Rules Env-Wr 100-700 to implement this program.
2. RSA 482:11-a requires the owner of a dam to maintain and repair the dam so that it does not become a "dam in disrepair".
3. Freudenburg NOK-General Partnership owns Upper IPC Dam, located in Bristol, NH, further identified in DES records as Dam #031.03 ("the Dam"). Freudenburg NOK-General Partnership (the "Owner") has acknowledged ownership of the Dam in correspondence to the Water Division dated August 23, 2001.
4. RSA 482:12 requires DES to periodically inspect all dams in the state which may pose a menace to public safety, and to take action to ensure that the dam is repaired or reconstructed if the inspection indicates that the public safety so requires.
5. RSA 482:2, V defines a "dam in disrepair" as a dam which is a menace to public safety and is incapable of safely impounding flood waters to its crest, or is incapable of maintaining a

GRAFTON COUNTY  
REGISTRY OF DEEDS

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reasonably constant level of waters impounded or which does not contain adequate gates and sluiceways to provide for the holding or controlled discharge of waters impounded.

6. Env-Wr 101.21 defines "menace to public safety" as any dam the failure of which would threaten life or property. Property, when used in this context, means buildings, structures or other real estate.

7. Env-Wr 101.05 defines "Class B Structure" as a dam with a significant hazard potential, the failure of which would result in possible loss of life and significant economic loss.

8. Env-Wr 101.29 defines "possible loss of life" as the risk posed by water levels rising to the foundation but below the first floor elevation of a habitable structure during a dam breach.

9. In accordance with Env-Wr 301.03, DES has classified the Dam as a Class B, significant hazard potential structure.

10. On February 8, 2001, DES issued a Letter of Deficiency ("LOD") to the owner requesting several maintenance items be addressed (Items 1-4 by April 1, 2001; Items 5-8 by August 1, 2001).

11. On April 2, 2001, DES received a letter from the Owner requesting a time extension. The letter indicated that the owner was considering decommissioning of the dam as the repair costs may exceed the maintenance costs.

12. On April 2, 2001, DES issued a letter to the Owner granting the requested time extension deadline of July 1, 2001, for Items 1-4.

13. On July 19, 2001, DES received a letter from the Owner with an attached Operations and Maintenance Plan as requested by DES in the LOD.

14. On August 19, 2001, DES requested the Owner revise and re-submit the Operations and Maintenance Plan and an update of the status of the remainder of the items noted in the LOD.

15. On August 28, 2001, DES received the revised Operations and Maintenance Plan and status of the LOD items from the Owner. The status report claimed substantial compliance with all items listed in the LOD.

16. On September 4, 2001, DES issued a letter to the Owner acknowledging the receipt and approval of the submitted Operations and Maintenance Plan, and indicating a follow-up inspection would be performed to determine the extent of compliance with the LOD.

17. On March 27, 2003, DES personnel visited the site and observed that the timber spillway apron had moved and its integrity was in question. Prior to the DES's inspectors arrival at approximately 1:00 p.m., the Owner had removed stoplogs from the main dam and the right auxiliary spillway. Based on the visual inspection by DES personnel, it appeared that ice pressure and/or previous high flow conditions had lifted the timber apron and moved it between 8 and 11 inches downstream, leaving a gap between the downstream face of the overflow spillway and the timber apron.

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18. Also on March 27, 2003, while the impoundment was dewatered, DES personnel observed several large voids beneath the upstream concrete slab and downstream timber face, as well as the presence of significant deterioration on internal timbers and the lack of structural support for the stoplogs and walkway. In addition, there was a significant bulge in the downstream direction of the stoplog section/walkway that appeared to have worsened considerably in the last several years.

19. On March 28, 2003, the Owner carried out a temporary repair to the timber spillway apron (through the spring runoff season) by bridging the gap with 2" x 12" planks in an effort to keep spillway flows from entering and forcing the apron further downstream.

20. April 1, 2003, DES issued a letter to the Owner expressing concerns that resulted from the March 27, 2003 inspection described above and requested the Owner schedule a meeting with DES personnel to discuss future repairs.

21. The Owner did not contact DES as requested to schedule a meeting.

22. During the weekend of March 29, 2003, spring runoff conditions coupled with a rain event increased flows over the Dam from approximately 500 cfs to 1500 cfs.

23. On or about April 3, 2003, DES observed that the temporary timber apron had failed and the apron had moved further downstream. DES personnel inspected the site on April 3, 2003 and met with the Owner. At that meeting, DES personnel discussed with the Owner other options for further temporary repairs. In addition to discussing temporary repair alternatives, DES personnel expressed concerns for the long-term safety of the dam and strongly suggested that the impoundment be lowered or drained until a complete structural evaluation and subsequent repairs could be carried out.

24. On April 4, and 5, 2003, the Owner disassembled the failed timber apron and used the timbers to construct a temporary repair to the Dam. The work consisted of placing the timbers at an angle against the downstream timber face of the Dam and wedging them against a portion of the remaining concrete apron.

25. On April 15, 2003, DES personnel visited the site to observe the temporary repair of the apron.

26. On April 21, 2003, DES issued a letter to the Owner indicating that DES was satisfied with the temporary repair and the timely response by the Owner to address the short term safety concerns with the Dam. In that letter DES re-iterated concerns regarding the long-term safety of the Dam and requested the Owner contact DES to discuss these concerns.

27. The Owner did not contact DES as requested to schedule a meeting.

28. On May 7, 2003, DES personnel contacted the Owner to schedule a meeting. The Owner indicated he would check his schedule and call DES by the end of the day May 9, 2003.

29. The Owner did not contact DES to schedule a meeting.

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BK 2953 PG 0372

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30. On or about May 13, 2003, DES personnel left a voice mail for the Owner requesting he contact DES to schedule a meeting.

31. The Owner did not contact DES to schedule a meeting.

#### **D. DETERMINATION OF VIOLATIONS**

1. The Owner has violated RSA 482:11-a by failing to maintain the Dam to prevent it from becoming a "dam in disrepair". Specifically, safety concerns outlined by DES personnel in Item C.18 above have not been addressed.

#### **E. ORDER**

Based on the above findings, DES hereby orders the Owner as follows:

1. Continue to operate the Dam in a dewatered condition by keeping all stoplogs removed from the auxiliary spillway and main dam in order to divert all river flow through the auxiliary spillway. The Dam must be operated in this manner until such time as compliance with Items E.2 through E.5 are achieved to reconstruct the Dam, OR Items E.6 through E.8 are achieved to remove the Dam.

**If the Owner elects to repair the Dam pursuant to Item E.1, then the Owner must address Item E.2 through E.5, below:**

2. **By June 1, 2004** Retain the services of a Professional Engineer licensed in the State of New Hampshire who shall submit a schedule to DES for the investigation and analysis of the Dam to address items E.3 through E.5 below.

3. **By December 31, 2004** submit to DES an engineering report as completed by a New Hampshire Licensed Professional Engineer with results and recommendations resulting from structural, hydrologic, and hydraulic analyses of the Dam. The report should include conceptual reconstruction options for the Dam.

4. **By June 30, 2005** Submit design plans, specifications, and any required DES permit applications for the reconstruction of the Dam.

5. **By November 1, 2006** Complete the reconstruction of the Dam in accordance with the approved plans, specifications, and permit conditions.

**If the Owner elects to remove the Dam pursuant to Item E.1, then the Owner must address Item E.6 and E.7, below:**

6. **By August 31, 2004** Submit any required DES permit applications for the removal of the Dam.

7. **By September 30, 2005** Remove the Dam in accordance with the approved plans, specifications, and permit conditions.

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BK2953PG0373

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8. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Jeffrey M. Blaney, P.E., Dam Safety Engineer  
DES Water Division  
P.O. Box 95  
6 Hazen Drive  
Concord, NH 03302-0095  
Fax: (603) 271-3406  
e-mail: jblaney@des.state.nh.us


**F. APPEAL**

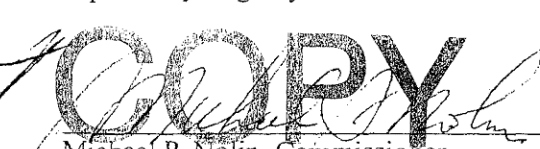
Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve the Owner of the obligation to comply with the Order.

**G. OTHER PROVISIONS**

Please note that RSA 482:89 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. DES will continue to monitor the Owner's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Belknap County Registry of Deeds so as to run with the land.

  
Harry T. Stewart, P.E., Director  
Water Division

  
Michael P. Nolin, Commissioner

Certified Mail/RRR: [insert number]

cc: Gretchen Rule, DES Legal Unit  
Public Information Officer, DES PIP Office  
Jennifer J. Patterson, Sr. Assistant Attorney General, NH AGO EPB  
Town of Bristol  
Grafton County Registry of Deeds

  
Joel A. Dupuis REGISTER  
GRAFTON COUNTY REGISTRY OF DEEDS

BK2953PG0373

Administrative Order No. WD 04-001

Page 5

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DES Water Division  
P.O. Box 95  
6 Hazen Drive  
Concord, NH 03302-0095  
Fax: (603) 271-3406  
e-mail: jblaney@des.state.nh.us


**F. APPEAL**

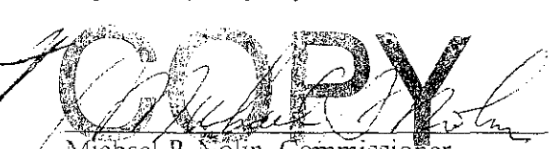
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Harry T. Stewart, P.E., Director  
Water Division

  
Michael P. Nolin, Commissioner

Certified Mail/RRR: [insert number]

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Jennifer J. Patterson, Sr. Assistant Attorney General, NH AGO EPB  
Town of Bristol  
Grafton County Registry of Deeds

  
Joel A. Dupuis REGISTER  
GRAFTON COUNTY REGISTRY OF DEEDS

stone wall and a westerly extension of said line to the westerly bank of the Newfound River; thence southerly following said bank to a point of intersection with a line which is the westerly extension of the line of the stone wall marking the southerly boundary line of land formerly of F. Ballou; thence easterly, following the line of said stone wall as extended, to an intersection with the westerly line of Lake Street, as formerly laid out, at the point of beginning. The last mentioned line, if extended easterly, will pass in close proximity to the southeasterly corner of the Bristol Aqueduct Company building that is presently located between U. S. Route 3-A and the location of Lake Street, as formerly laid out.

Being the westerly part of the land conveyed to the Bristol Electric Light Company by Napoleon B. Clourman by deed dated August 1, 1899, and recorded in the Grafton County Registry of Deeds, Book 448, Page 424.


Subject, however, to the right granted by the Grantor to the Bristol Aqueduct Company by deed dated May 21, 1940, to drain onto the land hereby conveyed by a pipe laid under said Lake Street, as said Street was formerly laid out.

- 473/428
- III. A parcel of land bounded northerly by the land described in paragraph II above; easterly by Lake Street, as formerly laid out; southerly by land of the Town of Bristol; and westerly by the easterly bank of the Newfound River; meaning and intending to describe and convey by this paragraph III all of the land now owned by the Grantor which was conveyed by Guy D. Smith to New Hampshire Power Company by deed dated February 13, 1930, and recorded in the Grafton County Registry of Deeds, Book 617, Page 164.
- IV. All right, title, and interest of the Grantor, if any, in the bed of the Newfound River between the southerly line of the parcel of land described in paragraph II above, and the north-westerly line of the bridge across said River, a distance of about 350 feet.
- V. All of the flowage and other rights associated with the dam hereby conveyed, including but not limited to those described in the deed of Guy D. Smith to New Hampshire Power Company dated February 13, 1930, and recorded in the Grafton County Registry of Deeds, Book 617, Page 164, which deed contains the following description:

All the water power, water and other rights and rights of flowage in any wise belonging or appertaining to that part of the homestead farm now or formerly of William Rice, formerly owned by Harry F. Prescott, in said Bristol on Newfound River lying northerly of the land of New Hampshire Power Company, formerly of Bristol Electric Light Company, and between Lake Street and said river, that may or can be flowed to a point about 2 feet above the highest point of the stone abutment or dam of said New Hampshire Power Company, formerly of said Bristol Electric Light

Company, as said abutment or dam now is on the  
and thereof near said highway called Lake Street.

For the Grantor's title to the property described in paragraphs  
II through V, reference is made to deed of New Hampshire Power  
Company to Public Service Company of New Hampshire dated  
August 1, 1936, and recorded in the Grafton County Registry of  
Deeds, Book 661, Page 380.



The property described in paragraphs I through V is hereby conveyed  
subject to the limitation that said property shall be held to the Grantee and  
its successors and assigns only so long as it shall be used for the generation  
of electricity by water power at the so-called Bristol No. 8 site and for  
twelve (12) months after the discontinuance thereof; then to The State of  
New Hampshire.

This conveyance is subject to the rights conveyed to The State of New  
Hampshire by deed dated December 22, 1964, to be recorded, to use the brook  
which by-passes said dam and crosses the land described in paragraph I, above,  
for the purpose of passing fish around said dam, together with the right to  
install fish ladders in said brook and to use an amount of water not to exceed  
seven (7) cubic feet per second.

Excepting and reserving to the Grantor the right to operate, maintain,  
remove, and replace the present electric distribution line along the westerly  
line of Lake Street, as formerly laid out, and along the westerly line of  
U. S. Route 3-A.

The Grantee, on behalf of itself and its successors and assigns, does  
hereby covenant, agree, and acknowledge as follows:

1. The Grantee has been advised by the Grantor that the dam conveyed by  
this indenture is a concrete dam rebuilt in 1936 on the footings of a former  
dam in the same location. The Grantee has been afforded full opportunity by  
the Grantor to inspect the dam and to retain expert advice as to its condition  
and the necessity of repairs. It has been advised by the Grantor that in view  
of the dam's condition it should retain an expert to advise it as to what  
repairs, if any, are necessary or advisable.

2. With respect to the condition of the property hereby conveyed, the  
Grantee acknowledges (a) that it is satisfied that there are no conditions,

whether natural or artificial, on, in, or about the dam structure or the waters controlled thereby, involving any risk of harm to persons or property which are or can be known to the Grantor and which are either not known to or are not likely to be discovered by the Grantee, (b) that the Grantor has heretofore offered to make available to the Grantee, or to any expert acting on the Grantee's behalf, all of its files relating to the property hereby conveyed, and has heretofore further offered to make available to the Grantee, or any expert acting on behalf of the Grantee, any engineer subject to the Grantor's direction and control for the purpose of consultation, (c) that the Grantor has warned that there may be hidden conditions on or about the property hereby conveyed of a dangerous or unsafe nature which are unknown to the Grantor and which cannot be discovered upon any reasonable inspection, (d) that it believes all representations made by the Grantor, both in this indenture and otherwise, to be true and to constitute a full and complete disclosure of all information regarding the property hereby conveyed which is available to the Grantor, but that in accepting this conveyance it in no way relies on any such representations but relies solely and exclusively on its own independent knowledge, information, and belief.

3. The Grantee acknowledges that it has been advised by the Grantor that if the Grantee does not purchase the property hereby conveyed, the dam will probably be removed; that it accepts the dam in its present condition without any reliance whatever upon any representations of the Grantor as to the condition or repair of the dam and that it will accept all risks incident to the ownership of the dam in its present condition regardless of its state of repair and that it is in no way relying upon the Grantor to warn or inform it with respect to the risks of danger incident to the ownership, operation, or maintenance of the dam.

The within described premises are conveyed subject to the lien of the Grantor's First Mortgage dated as of January 1, 1943, and indentures supplemental thereto, to Old Colony Trust Company of Boston, Massachusetts, Trustee;

provided, however, the Grantor hereby agrees that it will, on or before May 1, 1965, obtain a release of the premises hereby conveyed from the lien of said Mortgage and indentures supplemental thereto.

IN WITNESS WHEREOF, Public Service Company of New Hampshire and International Packings Corporation have hereunto caused their names to be subscribed and their seals to be affixed as of the 22nd day of December, 1964, each by an officer thereunto duly authorized.

In the presence of:

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

**COPY**  
*Donald R. Schiller*

By

*A. R. Schiller*  
A. R. Schiller, President

INTERNATIONAL PACKINGS CORPORATION

**COPY**  
*James H. Williams*

By

*James H. Williams*  
PRES.

The State of New Hampshire  
County of Hillsborough

On this the 22nd day of December, 1964, before me, Anabelle Landers, the undersigned officer, personally appeared A. R. Schiller, who acknowledged himself to be the President of Public Service Company of New Hampshire, a corporation, and that he, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

In witness whereof I hereunto set my hand and official seal.

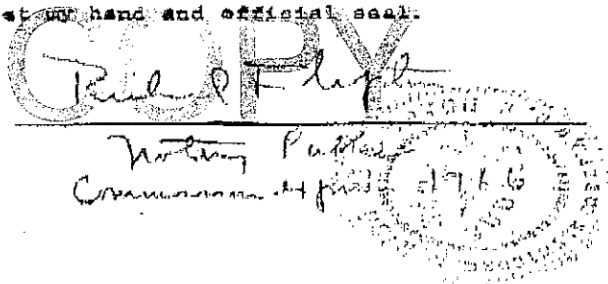
**COPY**  
*Anabelle Landers*  
Notary Public

My Commission expires April 10, 1965

The State of New Hampshire  
County of ~~Merrimack~~

On this the 28<sup>th</sup> day of December, 1964, before me, RICHARD E. LUTON, the undersigned officer, personally appeared D.S. WILLIAMS, who acknowledged himself to be PRESIDENT of International Packings Corporation, a corporation, and that he, as such PRESIDENT, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as PRESIDENT.

In witness whereof I hereunto set my hand and official seal.



Received and Recorded Dec. 30, 1964 8:30 A.M.

WITNESS:

*Thomas J. Loden*  
*Thomas J. Loden*

*Robert C. Edison*  
 Robert C. Edison  
*Mabel S. Edison*  
 Mabel S. Edison

## State of New Hampshire

On this the 31<sup>st</sup> day of December, 1964, before me,  
 the undersigned officer, personally appeared Robert C. Edison and Mabel S. Edison  
 known to me (or satisfactorily proven) to be the person s whose name s subscribed to the within instrument  
 and acknowledged that t he y executed the same for the purposes therein contained.  
 In witness whereof I hereunto set my hand and official seal.

Received and recorded:  
 Dec. 23, 1964 10:00 A.M.

*Thomas J. Loden*  
 Notary Public  
 State of New Hampshire  
 Commission Expires 1965

Charles A Wood Register

## KNOW ALL MEN BY THESE PRESENTS

That PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, a corporation with its principal place of business at Manchester, in the County of Hillsborough in the State of New Hampshire (hereinafter called the Grantor), for consideration paid, grants to THE STATE OF NEW HAMPSHIRE (hereinafter called the Grantee) with QUITCLAIM covenants, the following described property located in Bristol, in the County of Grafton in the State of New Hampshire:

- I. The right to use the brook which by-passes the dam at the Grantor's Bristol No. 8 Hydroelectric Generating Station, so-called, on the Newfound River about .75 mile southerly of the outlet of Newfound Lake, for the purpose of passing fish around said dam, together with the right to install fish ladders in said brook.
- II. The right to use an amount of water not to exceed seven (7) cubic feet per second for the purpose described in paragraph I.
- III. All and the same land and rights associated with the Grantor's Bristol No. 8 Hydroelectric Generating Station which are conveyed by the Grantor to International Packings Corporation by deed of even date herewith, to which deed reference is hereby made for a more particular description of said land and rights; this conveyance to take effect upon the expiration of twelve (12) months after the date on which electricity was last generated by water power at the Bristol No. 8 site.

By accepting this conveyance the Grantee acknowledges that the covenants, agreements, and acknowledgments of International Packings Corporation for itself and its successors and assigns, and the reservation of rights to the Grantor, contained in said deed of the Grantor to International Packings Corporation of even date herewith shall be binding upon the Grantee in the event it shall obtain title under this paragraph III.

Partial Release recorded Liber 1016 Folio 416  
 See Deed recorded Liber 1013 Folio 44



The within described premises are conveyed subject to the lien of the Grantor's First Mortgage dated as of January 1, 1943, and indentures supplemental thereto, to Old Colony Trust Company of Boston, Massachusetts, Trustee; provided, however, the Grantor hereby agrees that it will, on or before May 1, 1965, obtain a release of the premises hereby conveyed from the

lien of said Mortgage and indentures supplemental thereto.

IN WITNESS WHEREOF, Public Service Company of New Hampshire has hereunto caused its name to be subscribed and its corporate seal to be affixed this 22nd day of December, 1964, by its President thereto duly authorized.

In the presence of:

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Anna A. Schiller by A. A. Schiller  
A. A. Schiller, President

State of New Hampshire  
County of Hillsborough

On this the 22nd day of December, 1964, before me, Anabelle Lander, the undersigned officer, personally appeared A. A. Schiller, who acknowledged himself to be the President of Public Service Company of New Hampshire, a corporation, and that he, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

In witness whereof I hereunto set my hand and official seal.

Anabelle Lander  
Notary Public

Received and recorded:  
Dec. 23, 1964 10:00AM

My Commission expires April 15, 1965